IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REFERENCE NO.3 OF 2002

Shri.T.B.Jadhav, JT.C.J.J.D.
Niphad, District Nashik .. Petitioner
V/s
Shri.P.R.Patni .. Respondent

Mrs.P.H.Kantharia, APP for the Petitioner.
Mr.S.S.Kulkarni for the Respondent.

CORAM : B.H.MARLAPALLE & NARESH H.PATIL, JJ.
DATE : 18th September, 2006.

P.C.:

1. The Criminal Reference No.3 of 2002 is made under Section 15(2) of the Contempt of Court Act, 1971, by the Joint Civil Judge, Junior Division, Niphad, District Nashik for taking appropriate action against Advocate - Mr.P.R.Patni unde the Contempt of Courts Act.

2. The brief facts are that on 12th March, 2002 the contemnor Mr.P.R.Patni, the Advocate was appearing for the judgment debtor in a regular darkhast proceedings bearing Darkhast No.1/1996 (Subhash Baburao Kapse V/s.Nandalal Gulab Kayastha) before the Joint Civil Judge, Junior Division, Niphad, District Nashik. On that day, Mr.D.P.Waghavkar, the Advocate appearing for the decree holder led his evidence by examining the witness on behalf of the decree holder. After completion of his examination in chief, the contemnor-Advocate Mr.Patni who was appearing for the

judgment debtor was asked by the learned Judge to cross-examine the decree holder. It appears that during the process of cross-examination, the contemnor-Advocate Mr.Patni was repeatedly putting some irrelevant and unnecessary questions to the decree holder which were objected to by the Advocate Mr.Waghavkar appearing for the decree holder. The presiding judge hinted the learned Advocate Mr.Patni to put relevant questions only. However, the learned Advocate Mr.Patni still continued to put irrelevant questions to the decree holder and therefore the learned trial Judge again requested the contemnor-Advocate Mr.Patni to put relevant questions only. At this juncture, the contemnor-Advocate Mr.Patni lost his temper and started shouting and addressing the Court loudly with some comments and remarks, which were found by the learned trial Judge to be highly objectionable as well as derogatory to the decorum and dignity of the Court. In the process of raising voice the contemnor-Advocate Mr.Patni uttered few sentences, which according to the learned trial Judge were most sarcastic and contemptuous. The said utterances used by the contemnor-Advocate Mr.Patni have been reproduced by the learned trial Judge in the Reference, which reads as thus:

> "Evidence is being recorded without any reason (pointing at me) you said you are (the judge)

behaving like anything, since I always prefer to keep mum. In my thirty years of long practice I did not see a Judge like you. Three judges were trained by me to whom I taught to keep always mum. You deliberately insulted me at number of occasions, you are trying to penetrate unwanted words in my mouth. Do not try to teach me. I have taught number of judges like you. My nature is like this and it would remain forever as it is. You have done injustice to me at number of times. I tolerated all the time, but now, I will not spare you. My sound is always of loud tone and it will remain as it is."

3. In the reference, the learned Judge has further stated that at the time of the said incident in question, besides the parties to the concerned darkhast proceedings, other litigants, their Advocates and staff members were present in the Court hall. According to the learned Judge all of them were shocked by such a conduct of Mr.Patni, and after hearing the shouts of Mr.Patni, even some of the Advocates from other Courts rushed to the said Court hall. This incident happened on 12th March, 2002, resulting in unfortunate state of affairs. The incident took place on 12th March, 2002 and on 14th March, 2002 a show cause notice was issued by the concerned Judge to the contemnor-Advocate Mr.Patni calling upon an explanation as to why a

reference should not be made to the High Court for initiating proceedings under the Contempt of Courts Act, 1971 against him in respect of his highly objectionable and contemptuous address and conduct in the Court hall on 12th March, 2002.

4. It appears that the contemnor Mr.Patni had sought extension of time for submitting his explanation and accordingly the learned Judge had granted time till 29th March, 2002 to file the explanation. It appears that the contemnor Mr.Patni had again sought time for submitting his explanation, which was granted by the learned Judge till 5th April, 2002. Accordingly, Mr.Patni filed his explanation on 5th April, 2002. After considering the statements of the witnesses, the Roznama and the explanation filed by the contemnor, the learned Judge was of the opinion that this was a fit case for making a reference to the this Court (High Court) for taking appropriate action against the Adcocate Mr.Patni under the provisions of the Contempt of Courts Act, 1971, and consequently a reference was made to this Court.

5. Notice was issued to the contemnor-Advocate Mr.Patni and accordingly the reply is filed by Mr.Patni. On the date of hearing i.e.18th September, 2006, an additional affidavit has also been filed by the contemnor-Advocate Mr.Patni. In paragraph No.2 of the said additional

affidavit dated 18th September, 2006, the Advocate Mr.Patni has undertaken that such type of incident will not be repated again. The paragraph No.2 of the additional affidavit dated 18.9.2006 reads thus;

> "I hereby undertake to this Hon'ble Court that such incident will not be repeated again. I will see to it that dignity, decorum and high value and tradition of our institution will be maintained, at all times."

6. Mr.Patni, in his affidavit in reply has stated that the questions put by him were found to be irrelevant by the learned Judge, however, the learned Judge ought to have decided the relevancy of the said questions. Mr.Patni has stated that instead of deciding the relevancy of the said questions, the learned Judge informed him that he (Advocate) does not know what the evidence is and how it is to be recorded. It is further stated in the affidavit in reply by Mr.Patni that it was informed by the learned Judge that he (Advocate) does not know what is to be asked in the cross-examination. It is further averred that some of the words were put by the learned Judge in his (Advocate's) mouth, which he never uttered. The utterances referred in the show cause notice are not true and correct, and that he had only informed the learned Judge that the learned Judge had insulted him number of occasions; that his three

juniors came to be appointed in the judiciary and that he had always taught them that they should give good treatment to the lawyers. It is further averred by Advocate Mr.Patni in his affidavit in reply that he had put in about 30 years of sincere and honest practice in the legal profession, and that every day he used to appear in 20 matters approximately. Mr.Patni has further stated that he was basically from Yeola who later on shifted to Niphad, and therefore the local members of Niphad Bar Association did not like an outsider to practice at Niphad and to come up as an Advocate. Mr.Patni has therefore stated that the resolution passed by the Advocates of Niphad Bar Association after two days of the incidence dated 12th March, 2002 goes to the extent of putting certain words in his mouth which he did not utter and which are not even the subject matter of the show cause notice.

7. We have heard the respective Counsel appearing for the parties and perused the record placed before us. Alongwith the reference the concerned Judge has forwarded a Roznama of the regular Darkhast, show cause notice issued to the Advocate Mr.Patni, copies of the deposition of witnesses, explanation/reply tendered by Advocate Mr.Patni to the show cause notice issued by the learned Judge, resolution of the Niphad Bar Association with regard to the conduct of Advocate Mr.Patni on the date of incident dated 12th March, 2002, affidavits filed by some of the persons and other relevant papers.

In the explanation tendered by Mr.Patni to the show cause notice issued by the learned Judge, it is stated that he was insulted by the learned Judge in the open Court as if he does not know anything of law and of conducting the case. In Paragraph No.8 of the explanation tendered by Mr.Patni to the learned Judge he stated thus;

> "After this episode, I very humbly and respectfully submitted to honourable chair that I am practicing for last 30 years, but none of the judges had treated me the manner in which you are treating me. This is damaging to my image. Though I kept mum for last two years, now this is unbearable for me to tolerate such type of treatment. Many of the sitting judges had learnt "ABC" of law from me and now it is said that I do not know what is to be asked in the cross-examination? I was on the verge of weeping out in the Court. My throat was dried and I cannot address in a normal tone. The quality of last words of my submissions was like a person who utters the words and weeps at the same time. But my sound was not at all big and it was not at all "shouting". I never shouted in the Court in last 30 years of my practice and on the date of alleged incident also there was not shouting from me. Incident was such and my submission was such that it cannot be addressed in loud voice or by shouting."

8. From the record it transpires that the trial judge had asked Mr.Patni to put only the relevant questions to the witness, and if the judge had asked the lawyer concerned to put only relevant questions by avoiding unnecessary questions which were not germane to the issue involved, we find that the utterances which were used by Mr.Patni in response to the same were not in keeping with decorum and dignity of the Court. The Advocate as a citizen has a fundamental right of freedom of speech and expression under Article 19 of the Constitution. This right is also guaranteed to him by the Advocates Act, and under the legal profession the Advocate has inherent right to express himself in the best manner while arguing, cross-examining or addressing the court, but the same exercise shall be in keeping with dignity and maintaining decorum in the court proceedings. The contemnor, as a senior lawyer having 35 years of practice is presumed to be well aware of all the restraints which are expected to be observed while functioning in the Court of law. It is necessary for everybody who is associated with discharge of duties in the judicial proceedings in the Court of law to maintain dignity and decorum of the Court. This is necessary to uphold majesty of law and the Courts. In the present case we find that even the Niphad Bar Association had passed a resolution thereby taking serious objection to the conduct of Mr.Patni for the incident of 12th March,

2006. Some of the lawyers practicing at Niphad Court have filed affidavits explaining and highlighting the objectionable conduct of the Advocate Mr.Patni. From the perusal of material placed before us we do not find that unnecessary words were put or inserted by the learned Judge in the mouth of the contemnor for making out the case against him under the Contempt of Courts Act.

9. The reply submited by Advocate Mr.Patni in response to the notice is not satisfactory for holding him not guilty. We do not find any justifiable reason on the part of Advocate Mr.Patni which caused him to be agitated during the judicial proceedings before the trial Court. The utterances used by the contemnor certainly bring disrepute to the judicial proceedings and it offends the presiding judge. Therefore, we are of the view that the contemnor-Mr.Patni, the practicing Advocate had committed contempt of Court, and therefore is guilty for committing criminal contempt of Court as defined under the provisions of Section 2(c)(i) of the Contempt of Courts Act, 1971.

10. The contemnor-Advocate Mr.Patni, in his Affidavit in reply has tendered unequivocal and unconditional apology to this Court. We have perused the said affidavit in reply. He has stated that he has great remorse about the unfortunate incident which occurred in the open Court at Niphad. According to him, as stated

in his affidavit in reply, he had no intention to commit contempt of the Court and to cause any inconvenience or to hurt any one and/or to disturb or obstruct the proceedings of the Court. He has submitted that he has great respect to the Court at Niphad as well as to this Court and the same will continue throughout his life. According to him, for the first time in his life he had faced such a situation. He has further submitted that for the last about 34 years he is practicing as an Advocate in the mofussil area and therefore he is not conversant with law of contempt and the practice and procedure of tendering the unconditional apology. Therefore the contemnor-Advocate Mr.Patni has submitted that the unconditional apology tendered by him in his affidavit in reply in the present Criminal Reference proceedings may kindly be accepted by this Court.

11. We have also perused the additional affidavit of the contemnor in which he has undertaken that such type of incident will not be repeated again, and that he will see to it that dignity, decorum and high value and tradition of our institution will be maintained at all times. The contemnor-Advocate Mr.Patni is having a standing practice of 34 years at bar. Considering this aspect and the unconditional apology tendered by him to this Court, we are of the considered opinion that the unconditional apology tendered by the contemnor-Advocate Mr.Patni deserves to be accepted. Therefore, we do not propose to inflict any punishment on Advocate Mr.Patni.

Having accepted the unconditional apology tendered by Advocate Mr.Patni and the undertaking for the future tendered by him to this Court, we deem it appropriate not to inflict any punishment. The Contempt Petition is disposed of accordingly.

12. Registry is directed to forward a copy of this order, and the copy of the additional affidavit dated 18.9.2006 filed by the contemnor in this Court, to the concerned trial Judge.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE, J.)**